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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,698	06/20/2001	Santhana Krishnamachari	US 010296	4263

24737 7590 07/29/2004

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

LAMARRE, GUY J

ART UNIT PAPER NUMBER

2133

DATE MAILED: 07/29/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary

Application No.

09/885,698

Applicant(s)

KRISHNAMACHARI, SANTHANA

Examiner

Guy J. Lamarre, P.E.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/09/04 and 4/30/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

GENERAL OFFICE ACTION

1.0 A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed on 4/30/04 in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission of 4/09/04 has been entered.

1. This office action is in response to Applicants' **submission of 4/09/04**.

1.1 **Claim 2** is cancelled, **Claim 1** is amended. **Claims 1 and 3-16** remain pending.

1.2 The **prior art** rejections to **Claims 1 and 3-16** of record are maintained.

Response to Arguments

2. Applicants' arguments of 4/09/04 have been fully considered, but are not persuasive.

REMARKS

2.1 In penultimate para. at page 5 of response, Applicants wonders whether **Tanaka** discloses error correction insertion as formulated in the 1st office action. Examiner maintains that such insertion means is disclosed in **Tanaka**. Data partitioning into subsets is taught in more detail in **Seshadri**, hence the reason behind combining the two references.

2.2 In para. 2 at page 6, Applicants concede that **Tanaka** discloses that packet length changes according to information content of each media information or equivalently, packet length changes in proportion of, or according to, information content of each media information, or packet length is a function of information content of each media information. In other words, data fields vary in proportion with the amount of media information to be transferred.

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2.3 In para. 2 at page 6, Applicants arguments, re: **Tanaka's** length variations based on current conditions or backlog, are rather selective because **Tanaka's** length variations are not so limited: as indicated by **Tanaka**, length variations may be 'as well' 'coped with by the present invention.'

At para 98 of **Tanaka** describes multimedia data packet comprising A1 voice bits, A2 data bits and A3 image bits: $A1=A2=A3$ implies equal proportion, else there is unequal proportion. At any rate, the packet length is still a function of, or proportional to, the size of each of the plural media streams.

Criteria for selection of a coefficient of proportionality are a matter of design choice or of balancing a plurality of trade-offs as also supported by newly discovered related prior art in **Lang** (US Pat. # 5,920,581) e.g. at col. 3 line 3 et seq.

Examiner also notes that ECC length is proportional to data length for data to be protected and that a primary objective of ECC design is to optimize such proportionality factor to reduce hardware overhead. Thus a code (encoded data) can be seen as comprising a data field and a ECC field, with each field being proportionl to code length.

2.4 In response to applicant's argument, at page 7, that the examiner's conclusion of obviousness is based upon improper/impermissible hindsight reasoning, Examiner notes that it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Examiner thus maintains that Claims 1 and 3-16 are unpatentable over the prior art of record.

Conclusion

3.1 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

3.2 Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (703) 305-0755. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (703) 305-9595.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Guy J. Lamarre, P.E.
Primary Examiner
7/11/04